



Development Control Committee
13th August 2009

REPORT OF HEAD OF PLANNING AND BUILDING CONTROL

30 - 31 Wiley Avenue, Darlaston

1.0 PURPOSE OF REPORT

To request authority to take planning enforcement action in respect of the erection of a garage building and a boundary wall, at the property.

2.0 RECOMMENDATIONS

- 2.1 That authority is granted for the issuing of enforcement notices under the Town and Country Planning Act 1990 (as amended), to require remedial actions to be undertaken as shown below in 2.3.
- 2.2 To authorise that the decision as to the institution of Prosecution proceedings, in the event of non-compliance with an Enforcement Notice, or the non-return of Requisitions for Information or a Planning Contravention Notice; and the decision as to the institution of Injunctive proceedings, in the event of a continuing breach of control; be delegated to the Assistant Director - Legal and Constitutional Services in consultation with the Head of Planning and Building Control .
- 2.3 That, in the interests of ensuring an accurate and up to date notice is served, authority be delegated to the Assistant Director - Legal and Constitutional Services in consultation with the Head of Planning and Building Control to amend, add to , or delete from the wording set out below stating the nature of the breach(es) the reason(s) for taking enforcement action, the requirement(s) of the Notice, or the boundaries of the site.:

Details of the Enforcement Notices

The Breaches of Planning Control:-

Erection of building fronting Wiley Avenue, measuring approximately 8.5 metres by 8.2 metres

Erection of brick boundary wall to Berry Avenue.

Steps required to remedy the breaches:-

Dismantle the building, and dig up its foundations.

Dismantle the boundary wall down to ground level and dig up its foundations, or reduce its height to a maximum of 1 metre high so as to simulate a wall benefiting from 'permitted development' status.

Period for compliance:-

4 months

Reasons for taking Enforcement Action:-

- a) The development, by reason of its size, height, scale, siting and design presents a dominant and out of scale development on a prominent corner of the street scene, which adversely impacts on the character and amenity of the locality.
- b) The development fails to provide adequate inter-visibility between pedestrians and vehicles to the detriment of highway safety at the junction of Berry Avenue and Wiley Avenue, to the detriment of highway safety.
- c) The development fails to provide adequate access for vehicles using the building, as there is insufficient space at the front of the site for vehicles to pull off the highway, leaving the highway and public footpath unobstructed.
- d) The development is therefore contrary to policies GP2, ENV32, H10, 7.1, 7.7, T1, and T5(e), of the Walsall Unitary Development Plan

3.0 FINANCIAL IMPLICATIONS

None arising from the report.

4.0 POLICY IMPLICATIONS

The report recommends enforcement action in order to seek compliance with planning policies.

5.0 LEGAL IMPLICATIONS

None arising from the report.

6.0 EQUAL OPPORTUNITY IMPLICATIONS

None arising directly from this report.

7.0 ENVIRONMENTAL IMPACT

The report seeks enforcement action to remedy adverse environmental and transportation impacts.

8.0 WARD(S) AFFECTED

Aldridge North and Walsall Wood

9.0 CONSULTEES

Related planning application 06/2211/FL was subject to normal publicity.

10.0 CONTACT OFFICER

Philip Wears

Planning Enforcement Team: 01922 652411

11.0 BACKGROUND PAPERS

Planning application 06/2211/FL, 06/1390/FL

Enforcement file not published

D. Elsworthy, Head of Planning and Building Control

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12 BACKGROUND AND REPORT DETAIL

- 12.1 30 -31 Wiley Avenue is on the corner of Wiley Avenue and Berry Avenue in a residential area. It is a grocery shop and dwelling
- 12.2 There have been a series of applications and permissions over the years. Some have related to the shop use. Others have sought to create a new house on the site. One of these was refused (05/1714/OL/W3). One was approved (06/0468/OL/W3).
- 12.3 The approval showed parking for the existing shop / dwelling (displaced by the proposed new house) in an existing car port fronting to Wiley Avenue, accessed from Berry Avenue.
- 12.4 The car port was unauthorised., but by the time of the decision had been replaced by a large garage, and a high wall along the Berry Avenue frontage (including an access).
- 12.5 There is an older and similar wall, on the other side of that access from the new wall. It should be noted that the visibility issues created by the new wall are the same as those caused by the old wall. However, a different design for the new wall would have achieved an improvement in the effect of the new wall, and should be put in place, hence the need for enforcement action.
- 12.6 An application (06/1390/FL/W6) was made to retain the garage (albeit that the plans did not precisely match what had been built). It was refused as too large, out of character with the area, and having poor visibility.
- 12.7 Another application, to retain the building but modify it by replacing / reducing the roof (06/2211/FL/W6) was refused for essentially similar reasons.
- 12.8 The garage is still in place (unmodified since 2006). The building still raises the issues which lead to the refusal in 2006. Enforcement action, as recommended, is the appropriate way forward.

